

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

July 13, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Hawaii

Status Report on Jacoby Development Inc.'s progress under the Development Agreement for the Kona Kai Ola master-planned mixed-use development project at Kealakehe, North Kona, Island of Hawaii, Hawaii. Tax Map Keys: (3) 7-4-08: 71 and portion of 3

REQUEST:

Report to the Board of Land and Natural Resources ("Board") on the status of Jacoby Development Inc.'s ("JDI") efforts to develop a master-planned, mixed-use development project (also referred to as "Kona Kai Ola") on State-owned lands in Kealakehe, North Kona, Hawaii.

BRIEF SUMMARY:

DLNR and JDI entered into a development agreement on November 18, 2005 (the "Development Agreement"). The Development Agreement contemplates that JDI will perform various due diligence activities, and following Board approval of its master development plan and other Required Deliverables (as discussed below) seek the land use entitlements and approvals necessary to develop the proposed Kona Kai Ola master-planned project on State-owned lands in Kealakehe, Hawaii, in accordance with the approved master development plan. This is a status report on JDI's progress as required by the Board in its approval of the Development Agreement.

SUBJECT PROPERTY:

The property is situated at Kealakehe, North Kona, Island of Hawaii, identified by TMK Nos: (3) 7-4-08: 71 and portion of 3. (See **Exhibits A and A-1**)

EXISTING HONOKOHAU SMALL BOAT HARBOR EXCLUDED:

The existing Honokohau Small Boat Harbor basin, including the entrance channel, boat slips/moorings, boat launching ramps and certain adjacent fast lands (identified by the shaded area in **Exhibit B**) are **NOT** included in the development agreement and will not be included in any lease issued to JDI. The existing harbor is, and will continue to be, managed by DLNR's Division of Boating and Ocean Recreation.

BACKGROUND:

DLNR is the owner of approximately 300 acres in Kealakehe, North Kona, adjacent to the existing Honokohau Small Boat Harbor. The majority of the subject parcel is vacant and

undeveloped, but has excellent development and revenue generating potential to the State due to the proximity of the site to the Queen Kaahumanu Highway, the ocean, and the existing harbor. On April 25, 2003, the Board approved the issuance of a Request for Qualifications / Request for Proposals ("RFQ/RFP") to solicit potential developers to lease and develop a master-planned, mixed-use project on the subject property.

In light of the State's shortage of recreational boating facilities and boat slips and the proximity of the subject property to the ocean and the existing Honokohau Small Boat Harbor, the Board imposed a requirement in the RFQ/RFP that all potential developers include a new marina component as part of their respective master plan proposals. Except for the marina requirement, the RFQ/RFP did not require any other specific land use be included in the proposals. DLNR issued the RFQ/RFP on January 23, 2004.

In response to the RFQ/RFP, JDI submitted a proposal for an approximate 500-acre master-planned mixed-use project to be developed on the subject property and an adjacent 200-acre parcel leased from the Department of Hawaiian Home Lands by an affiliate of JDI. JDI's proposal included a new 45-acre marina with approximately 800 new boat slips, together with commercial, resort, golf course and cultural components. Attached as **Exhibit C** is the proposed Land Use Plan submitted by JDI in response to the RFQ/RFP

On October 8, 2004, the Board approved the selection of JDI as the developer of the DLNR lands, and authorized DLNR to negotiate a development agreement with JDI for the proposed development project. The Development Agreement was subsequently approved by the Board on September 23, 2005 and executed on November 18, 2005 (the "Development Agreement").¹

The Development Agreement contemplates that JDI will conduct various due diligence activities/studies, prepare/process the required environmental impact statement(s), and seek the various land use approvals necessary to develop the Kona Kai Ola project. The agreement also imposes various other terms and conditions upon JDI. If JDI is successful in satisfying all of the terms and conditions of the Development Agreement, DLNR will issue a 65-year lease to JDI for the subject property.

The Development Agreement contemplates that many details of JDI's master plan would not be determined until after the Development Agreement was executed and additional studies completed. Therefore, the Development Agreement provides for JDI to submit a proposed master development plan and a proposed core infrastructure plan that will delineate JDI's plans for development of the subject property. The proposed master development plan and core infrastructure plan are to include information such as the specific locations and areas of the various components of the development, the proposed land uses and zoning for such components, the roads and other infrastructure to be constructed by JDI, and projected timelines and estimated costs for obtaining the land use entitlements and constructing the various components. These plans are subject to approval by the Board.

¹ The Board, at the September 23, 2005 meeting, also approved the set-aside of the existing Honokohau Small Boat Harbor and certain adjacent fast lands to DOBOR (see **Exhibit B**), thus removing said harbor and fast lands from the Development Agreement and any potential lease to JDI.

The Development Agreement requires that JDI submit the following for approval by the Board by no later than November 17, 2006 (the following plans/documents shall collectively be referred to as the "Required Deliverables"):

1. Master Development Plan ("MDP"). The MDP includes JDI's proposed master plan for the project, including the planned locations and estimated sizes of the development pods/components, proposed uses, proposed zoning, proposed phasing of the project, and estimated planning and construction timelines for each phase of the project, and for each phase of the new marina. The MDP must include a schedule and budget for the land use entitlements and estimated development and construction costs for each phase of the new marina and for the proposed first phase of the project, other than the new marina.
2. Draft EIS. An EIS is required pursuant to HRS Chapter 343 (i.e., for the lease of public lands), as well as for various land use entitlements that will be required to develop JDI's proposed project.
3. Core Infrastructure Plan ("CIP"). The CIP will detail the major infrastructure that JDI agrees to construct once the ground lease is issued, which shall include the core infrastructure necessary to provide roadway access and master utility service to all of the development parcels. The intent of the CIP is to provide assurances to DLNR that the roadways and utility infrastructure necessary to service all of the development parcels will be built, even if JDI is unable to complete the development project. The CIP must include a schedule for the phasing and timing of the construction of the core infrastructure as well as a budget therefore.
4. Master Covenants, Conditions and Restrictions ("CCRs"). The CCRs that will encumber the subject property and that are intended to provide controls over the use, development, and management of the Kona Kai Ola project.

Under the Development Agreement, the Board has 90 days to approve or object to the Required Deliverables. The Development Agreement sets forth the process and time frames under which the Board may issue objections to any of the above, and provides JDI with the opportunity to resubmit revised plans/documents for approval by the Board to address any objections to any of the above.

STATUS REPORT FROM JDI:

Attached as **Exhibit D** is a written report from JDI dated June 27, 2006, which describes the status of JDI's efforts and the proposed MDP, including changes in the proposed plan from JDI's initial Land Use Plan. As explained in JDI's written report, changes to the Land Use Plan include the deletion of the Honokohau Small Boat Harbor and adjacent lands (which are to be retained by DOBOR), the elimination of the proposed golf course, a different alignment for the proposed Kealakehe Parkway, increased density for the timeshare components, an increased shoreline park setback, and a reconfiguration of the new marina.

Although staff does not have any objections to the proposed changes at this time, staff intends to request additional information and clarification from JDI and reserves

comment pending review of the requested information and submittal of the Required Deliverables. (see **Exhibit E**)

REVIEW OF REQUIRED DELIVERABLES:

JDI has indicated it intends to submit the Required Deliverables on or before November 17, 2006. Under the Development Agreement, DLNR may also request additional documents/information be submitted by JDI to assist DLNR in its review of the Required Deliverables.

Staff intends to request the following information be submitted by JDI together with the Required Deliverables:

1. An updated business plan for the proposed project, reflecting among other things, the changes and modifications made to the proposed project from the project described in and covered by JDI's response to the RFP.
2. An updated proforma operating statement covering the projected build-out period for the entire project, reflecting among other things, the changes and modifications made to the proposed project from the project described in and covered by JDI's response to the RFP.
3. An updated Market Study of the proposed project, reflecting among other things, the changes and modifications made to the proposed project from the project described in and covered by JDI's response to the RFP and to reflect market changes since the original study dated March 31, 2004.
4. Conceptual design plans for the proposed new marina and related facilities (the "Basic Marina Facilities") and information/details to support the cost estimates to be provided for developing and constructing each phase of the Basic Marina Facilities.
5. Conceptual design plans for the infrastructure to be constructed under the CIP (the "Core Infrastructure") and information/details to support the cost estimates to be provided for developing and constructing each phase of the Core Infrastructure

Staff intends to hire an independent appraisal firm and an engineering firm with expertise in marina design/construction to assist in staff's review of the Required Deliverables and additional information submitted by JDI, including JDI's proposed cost estimates for the Basic Marina Facilities and Core Infrastructure. Additional consultants may also be retained to assist in the review of the EIS.

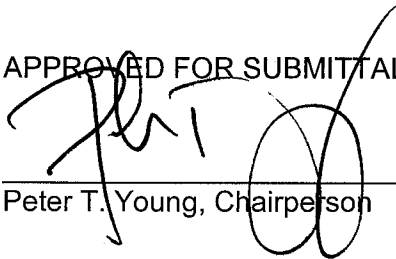
Under the Development Agreement, DLNR may request additional information from JDI to assist DLNR in its review of the Required Deliverables. Staff is requesting the Board's input and advice regarding the review process, including suggestions regarding additional information the Board may wish to request from JDI, as well as any guidance regarding staff's anticipated review of the Required Deliverables.

Respectfully Submitted,



Keith Chun
Planning and Development Manager

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

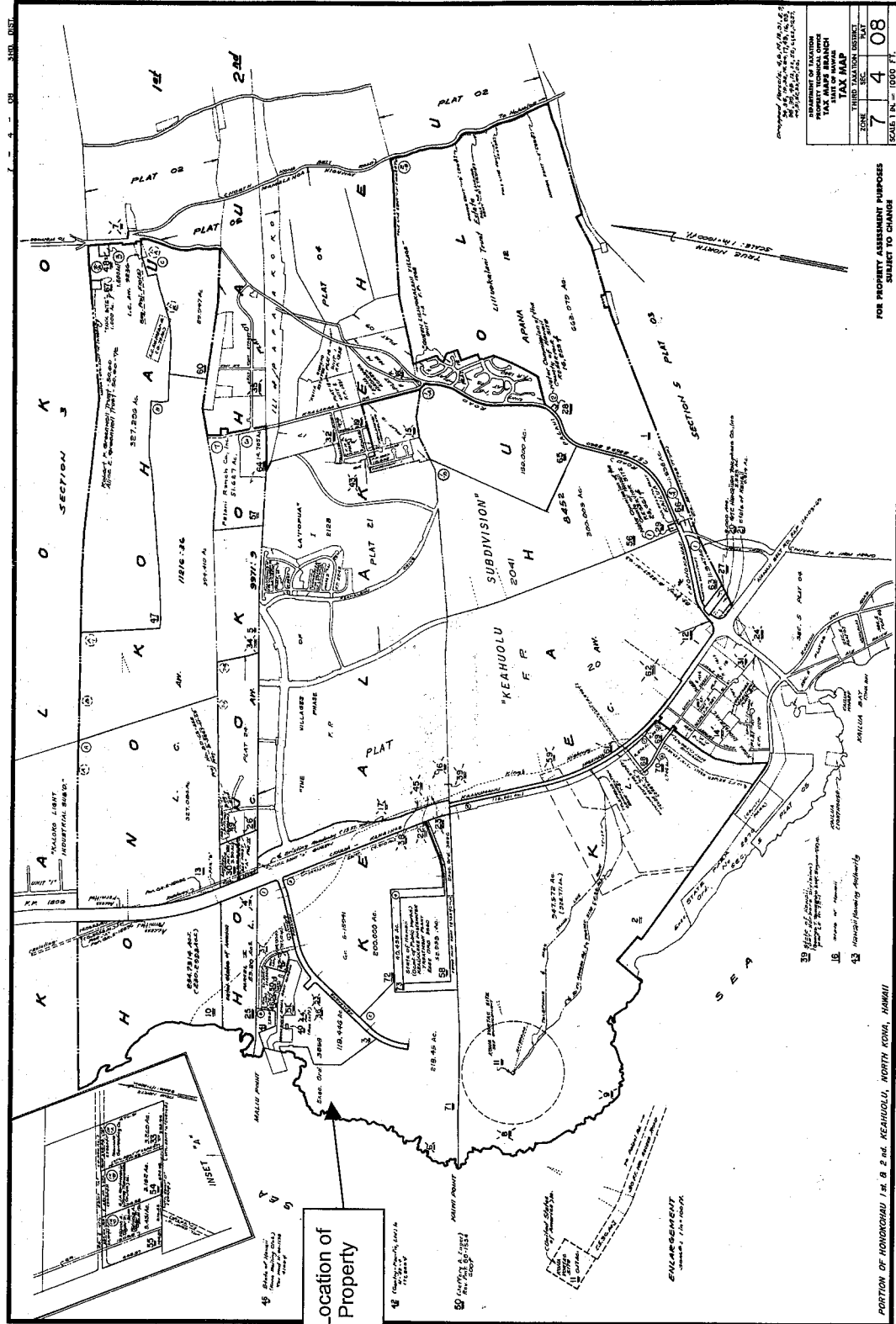
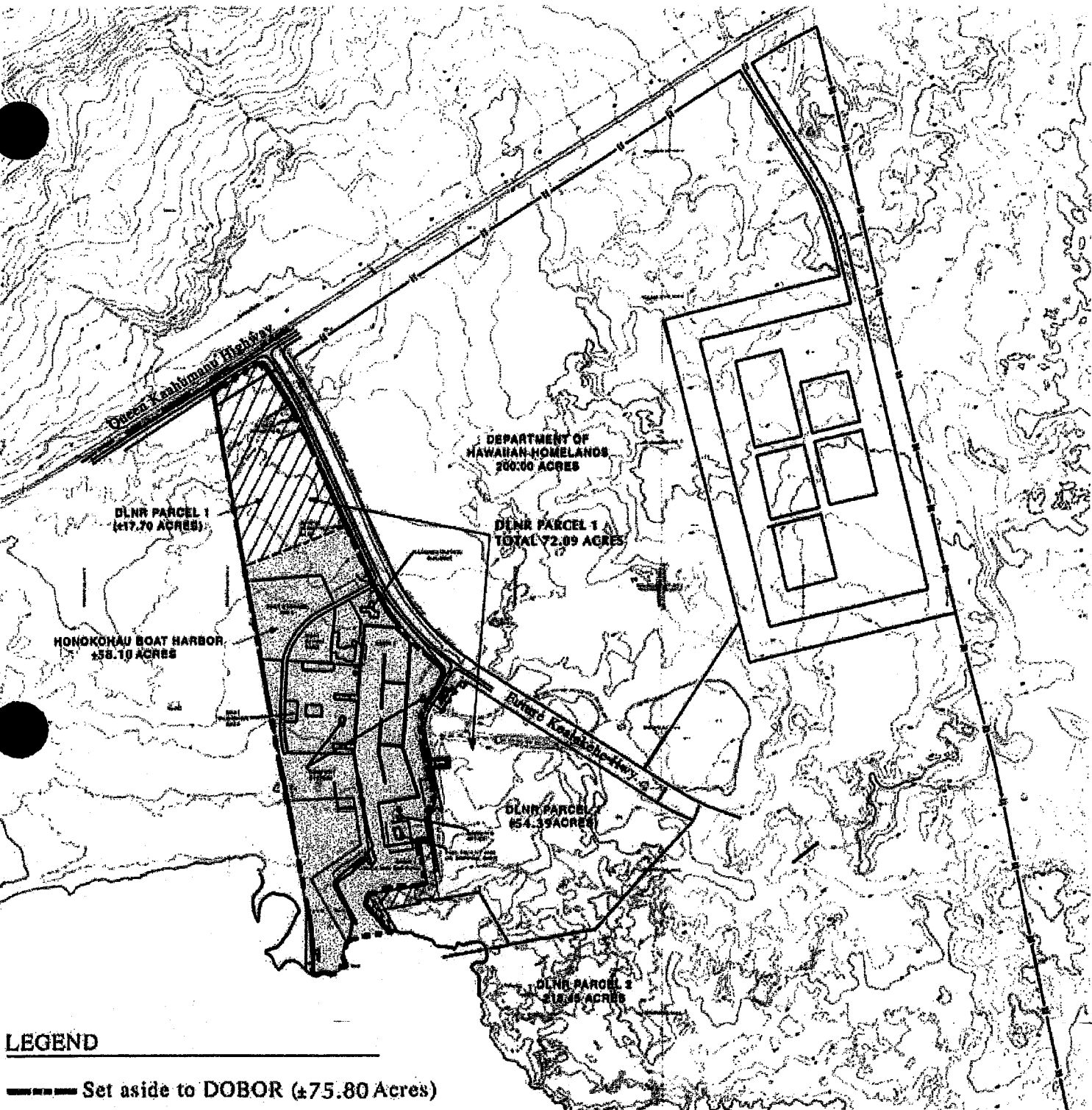


EXHIBIT A



LEGEND

Set aside to DOBOR (± 75.80 Acres)

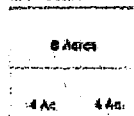
DLNR parcels 1&2 to be leased to JDI (± 290.54 Acres)

Leased to JDI, subject to set aside to DOBOR (± 17.70 Acres)

Part of DLNR parcel 1 to be leased to JDI, subject to easement or right-of-entry for public access/parking until new marina construction (± 1.76 Acres)

Map I

ANTI G SCALE



NORTH

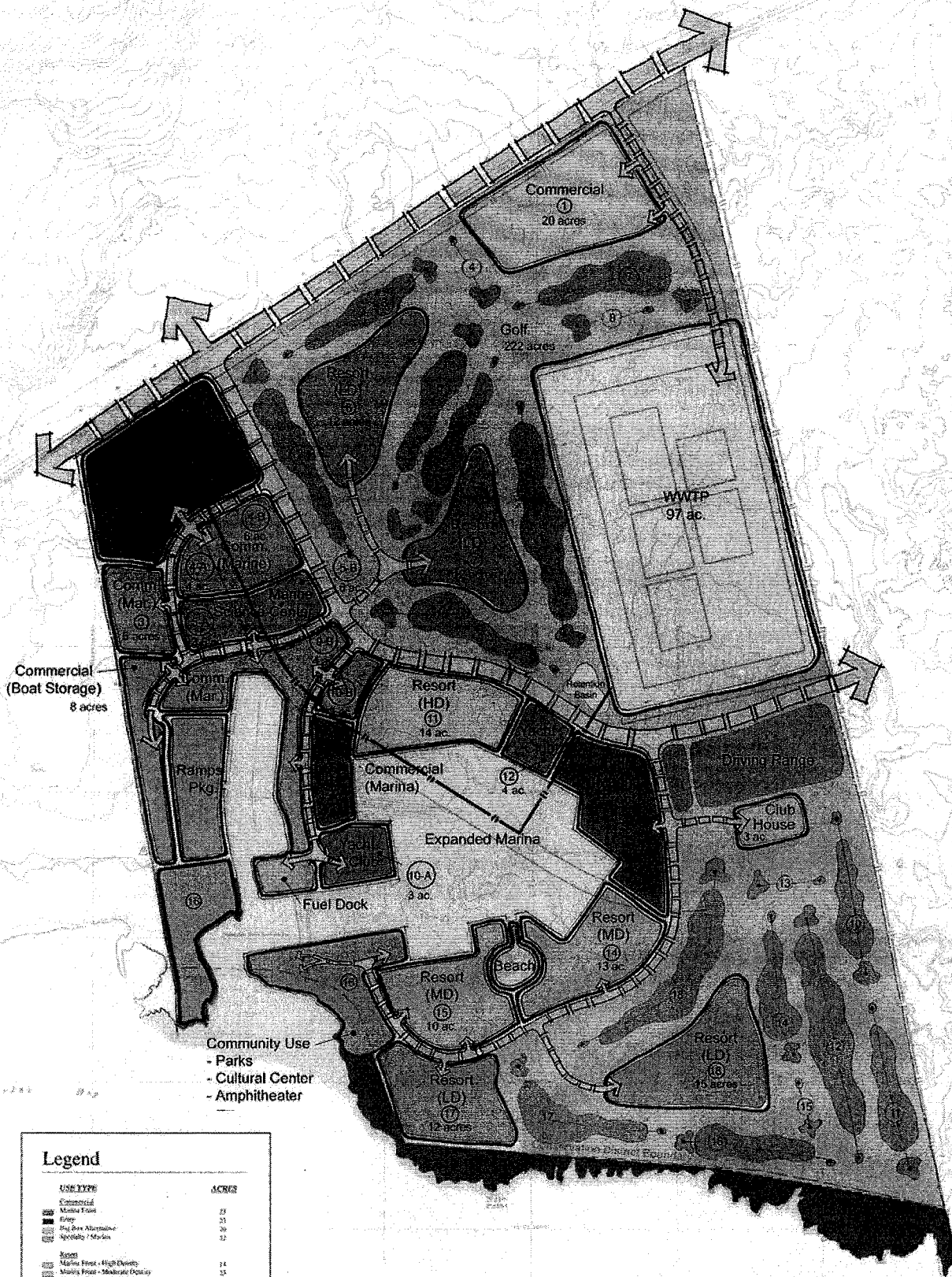


LINEAL SCALE (FEET)



9-30-05

EXHIBIT B



Legend	
USE TYPE	ACRES
Commercial	20
Marina Front	25
Edge	25
High Area Alternative	25
Specialty / Marine	32
Resort	
Marina Front - High Density	14
Marina Front - Moderate Density	13
Low Density	11
Golf Course	
Course	222
Club House	3
Marina	
Dock	45
Community Use	
Amphitheater	2
Center of Excellence Park	3
Community Health Center	1
Marine Cultural Center	7
Marine Fishing Village	4
Marine Science Center	7
Marine Training Center	1
Other	
Conservation Areas, Beach, Nails etc.	27
Water (Biosphere)	23
TOTAL	542

Land Use Plan

Kona Kai Ola

KEALAKEHE, N. KONA

AREA SCALE: 1" = 400' 1" = 800'

GRAPHIC SCALE: 0 100 200 300 400 500 600

DATE: 9/18/04

EXHIBIT C

JDI
JACOBY DEVELOPMENT, INC.

June 27, 2006

Mr. Peter T. Young
Chairperson, Board of Land & Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Young:

The purpose of this letter is to confirm that Jacoby Development, Inc. ("JDI") will brief the Board of Land and Natural Resources ("Board") on July 13, 2006 and that JDI and its affiliate, Kona Marina Development LLC ("Kona Marina"), will brief the Hawaiian Homes Commission ("Commission") on July 24, 2006 on the current status of the overall development plan for the proposed Kona Kai Ola project. JDI and Kona Marina will also be making a presentation on June 29, 2006 to the Staff of DLNR/DHHL on the current status of the Master Development Plan, Core Infrastructure Plan, Basic Marina Facilities Plan, Draft Environmental Impact Statement, and Master Covenants, Conditions and Restrictions, which are being prepared for submittal to the Board and Commission in October 2006. We will also report on Community and Government Relations.

This letter also serves as JDI's and Kona Marina's interim status report on the proposed Kona Kai Ola development on the DNLR and DHHL lands at Kealahou, North Kona, Island of Hawai'i. We have specifically addressed the areas noted in the DLNR letter dated June 19, 2006 regarding, "Kona Kai Ola Development Agreement dated November 18, 2005 Request for Written Status Report".

The enclosed information, includes, JDI's and Kona Marina's current status report on the development of the Master Development Plan, Core Infrastructure Plan, Basic Marina Facilities Plan, Draft Environmental Impact Statement, and the Master Covenants, Conditions and Restrictions for Kona Kai Ola, and a report on Community and Government Relations.

I. MASTER DEVELOPMENT PLAN ("MDP")

Kona Kai Ola is a proposed 530-acre master planned development on lands owned by DLNR and DHHL located on the Kona-Kohala Coast of the Island of Hawai'i, near Kailua-Kona, the Kona International Airport, and major employment centers. The project is bounded by the Pacific Ocean to the west, Queen Ka'ahumanu Highway to the east, the lands of the Queen Lili'uokalani Trust Estate to the south, and the Kaloko -

Honokohau National Historical Park to the north. Kona Kai Ola includes an extensive shoreline and is adjacent to the existing Honokohau Small Boat Harbor.

The Kona Kai Ola MDP is being developed by JDI, Kona Marina and their development team. The MDP includes the 330-acre parcel owned by the State of Hawai'i Department of Land and Natural Resources (DLNR) (identified as a portion of TMK 7-4-08: 003, 040, 041, 042, 046, 050 and 071), and approximately 200 acres owned by the State Department of Hawaiian Home Lands (DHHL) and currently leased to Kona Marina (TMK 7-4-08: 072). The MDP combines these two parcels to create a mixed-use and community-focused marina and resort village. The MDP will show how the DLNR and DHHL properties can be integrated to provide DLNR, DHHL, and the Kona community with a highly desirable mixed-use development.

Land uses envisioned include regional and resort retail, hotel and timeshare uses, a community area that will include a vocational training center and health center, marine science center, cultural park, and open space.

JDI and Kona Marina with their development team have developed a preliminary MDP, which will be presented to DLNR/DHHL on June 29. This preliminary MDP is the development plan that is being analyzed by the design team and being studied for the EIS. The MDP is on schedule to be completed by October 11, 2006 and for submittal to DLNR/DHHL on or before November 17, 2006, in conformance with the requirements of the DLNR Development Agreement and DHHL Lease.

Modifications to the Preliminary MDP and how the MDP differs from the Preliminary MDP submitted in response to the DLNR RFQ/RFP are outlined below.

Golf Course

The 18-hole championship golf course has been removed from the preliminary MDP. The golf course was envisioned as a recreational amenity to the resort visitor and Kona resident alike by providing public and private play. The golf course would also have provided a physical landscaped buffer and separation from the existing wastewater treatment plant that exists on site.

JDI and Kona Marina have always envisioned Kona Kai Ola as being a model for responsible development. In further analyzing the proposed golf course, JDI/Kona Marina were unwilling to include a use that had the potential of adversely impacting the natural resources and environment of the area. For example, the irrigation water required for the proposed golf course use would greatly effect the available water supply for the area, and leaching pesticides and fertilizers possibly resulting in contamination of the ground water and near ocean waters. In addition the following matters were considered in deciding to remove the golf course from the MDP:

- a. There already exist a substantial number of golf courses in the region;
- b. The Kona community expressed opinion against more golf courses on coastal lands;
- c. Public concern about the negative environmental impact of a golf course on ground water and coastal waters;
- d. Public concern about the negative impact on Kona's water supply if potable water is used for irrigation of such a golf courses;
- e. DHHL's policy goal to have more revenue-generating activities on this commercial lease parcel.

Being a responsible steward, JDI and Kona Marina listened to the Kona community and studied alternative uses to replace the golf course. The proposed resolution is to develop a mix of commercial and resort hotel and timeshare accommodations, all designed around a series of water features throughout the project that will not only provide recreational amenities to the resort visitor and Kona resident but provide open space corridors through the project.

Kealakehe Parkway Alignment

Kealakehe Parkway has been realigned in the MDP. The parkway has been realigned to the east or mauka of the waste water treatment plant ("WWTP"). This realignment will allow for a more direct route between Queen Ka'ahumanu Highway over the portion of the Kealakehe Parkway Extension to be constructed on the DLNR and DHHL lands, then over the adjacent Queen Lili'uokalani Trust lands to Kuakini Highway. This proposed upper alignment of the Kealakehe Parkway extension was chosen as the preferred route following preliminary discussions with the County of Hawai'i and the Queen Lili'uokalani Trust, both of whom indicated support for the upper alignment. Please note that the Kealakehe Parkway Extension over the adjacent lands owned by the Queen Lili'uokalani Trust will be subject to mutually acceptable agreements being negotiated between Queen Lili'uokalani Trust and JDI / Kona Marina.

This upper alignment is the alignment being studied in the overall EIS for the project.

Density

The overall density of MDP has increased. The RFQ/RFP plan had a density of approximately 1700 total units. The new plan has a density of approximately 2500 units, while retaining approximately 40% of the entire site area in open and green space.

The increase in density can be attributed to two factors. The first factor is the removal of the golf course use. The golf course, including the clubhouse, used 225 acres. Without the golf course in the plan, the design team needed to replace the 225 acres with uses that would add value to the project. This was challenging, because of restrictions of not being

able to develop residential uses on both DLNR and DHHL parcels. Because of this restriction additional timeshare parcels were added. This resulted in the increased density.

The cost of the infrastructure is another factor influencing the increase in density. As a result of the MDP process, a better understanding now exists as to the infrastructure improvements that will be needed for the overall project. Marina, water, sewer, electrical and road costs are tremendous. The increase in density allows for an increase in the anticipated revenue to be generated from the project which offsets in part the much greater than anticipated cost of the required infrastructure improvements.

400' Shoreline Park Setback

The RFQ/RFP MDP utilized the existing conservation district boundary line as its coastal setback. The current MDP proposes a substantial 400' shoreline park setback that provides increased public shoreline access to recreational areas and protection of culturally significant sites along the coast.

DLNR Retained Lands

On November 17, 2005, the Board of Land and Natural Resources signed a development agreement with JDI. At that time the Board chose to retain the existing Honokohau Marina and the "Fast" lands surrounding the marina.

Marina Configuration

The marina has been reconfigured based on the removal of the 225 acre golf course from the MDP. Although the basic shape of the marina has changed, the overall acreage has remained at 45 acres and the number of slips has remained at approximately 800 slips.

General Parcel Reorganization

Upon reviewing the current version of the MDP, you may note that several development parcels may have moved or been adjusted in configuration and size. Since we are still in the conceptual phase of project; the location and configuration of the various development parcels will continue to be evaluated based on size, location and surrounding land uses in order to achieve the preferred MDP that will be submitted in November 2006.

II. ESTIMATED TIMELINE FOR THE COUNTY GENERAL PLAN AMENDMENT, ZONING AND SMA NECESSARY TO IMPLEMENT THE MDP.

From 1989 until February 2005, the Hawai'i County General Plan designations for land use on the Kona Kai Ola project site included Urban Expansion Area, Resort, and Open, with an area designated for harbor expansion. It was upon this basis that DHHL and DLNR negotiated their agreements with JDI for a mixed-use development at this project site including commercial and resort components, and an expanded harbor.

The General Plan was amended in February 2005 that deleted the "Resort" designation for the project site. Consequently, there will need to be an amendment to the current General Plan to re-designate the project site as "Resort" and "Urban Expansion Area." Resolution 383-06 has been introduced before the County Council, which initiates the process for this General Plan amendment. The following outline shows the steps and approximate timeline to amend the General Plan, and initiate the zoning and Special Management Area (SMA) permit process.

General Plan Amendment:

July 18, 2006: Public hearing on Resolution 383-06 before the County Council Planning Committee.

August 1, 2006: First reading of Resolution 383-06 before the full County Council.

By December 1, 2006: Planning Director Chris Yuen is to complete his feasibility study, as directed by Resolution 383-06, within 120 days of the County Council's adoption of the resolution.

Approximately December 1, 2006 - February 1, 2007: The Planning Director makes his recommendations to the Planning Commission, which has 60 days to review the feasibility study and consider to recommend adoption or not. They will have public hearings and make their recommendation to the County Council.

Approximately February - March 2007: County Council will receive the recommendation from the Planning Commission, and will have public hearings and vote on the General Plan amendment.

Please note that the above dates are estimates based on current information and are subject to change based on actual timing of actions by governmental officials and agencies.

Zoning and Special Management Area Permits

Approximately April or May 2007: Once the General Plan amendment is approved, the zoning and SMA permit process can be initiated. These two can be done concurrently. A rezoning will be needed for the DLNR parcel. Rezoning the DHHL land is done differently, as DHHL can select and advise the County of its new zoning in accordance with the existing Memorandum of Agreement between the County and DHHL.

III. CORE INFRASTRUCTURE PLAN

The core infrastructure plan is on schedule to be completed by October 11, 2006 and will be submitted to DLNR/DHHL on or before November 17, 2006, in conformance with the requirements of the DLNR Development Agreement and DHHL Lease.

The scope of improvements to be included in the Core Infrastructure Plan is:

1. The realignment and construction of Kealakehe Parkway makai of Queen Ka'ahumanu Highway, including construction of a new intersection with said highway.
2. Construction of Kealakehe Parkway to serve each of the development parcels of the property
3. The construction/installation of master pipelines, facilities, and equipment in or about Kealakehe Parkway (water, sewer, electrical, and other utilities) to service each of the development parcels within the Property under the MDP.

The MDP proposes to realign Kealakehe Parkway to the south from its original alignment. The Kealakehe Parkway is planned as a 120-foot right-of-way (ROW). The ROW is planned to include sidewalks, landscape planters, bike routes and a landscaped median. The proposed Kealakehe Parkway and Queen Ka'ahumanu intersection will also be improved with signals, multiple deceleration and acceleration lanes, and turning lanes into and out of the project site.

The current long-range plans for Kealakehe Parkway include providing a continuous route between Queen Ka'ahumanu Highway and Kuakini Highway in Kailua-Kona. This portion of Kealakehe Parkway is being included in the Proposed Kona Kai Ola Master Development Plan and would relieve traffic on Queen Ka'ahumanu Highway by providing an alternate route between Kealakehe and Kailua-Kona. As discussed above JDI / Kona Marina has had preliminary discussion with the Queen Lili'uokalani Trust and has received conceptual approval of the upper alignment discussed above. The roadway's corridor is currently being studied as part of the overall EIS for the project.

The Core Infrastructure Plan is in the preliminary stages of planning and design. Because of this, a proposed phasing plan and construction cost estimates for each phase is not

available at this time. A phasing plan will be prepared, which will allow the team to analyze the costs of each phase. Following this analysis an estimated timeline for the start and completion of each phases of the Core Infrastructure Plan will be prepared and presented to DLNR and DHHL.

V. BASIC MARINA FACILITIES

The MDP includes a 45-acre small boat harbor and marina that will accommodate approximately 800 boat slips. The design team is in the master planning stage for the Basic Marina Facilities (BMF). We are in the process of completing a Marina Market Assessment which will address the recommended type and size of the BMF. The ultimate BMF plan will be developed in coordination with the DLNR.

At present, the BMF may include, though may not be limited to:

- Yacht club
- Canoe club
- Fishing club
- Harbormaster building
- Marina operations and maintenance buildings
- Boater supply store
- Yacht sales, rental and brokerage
- Yacht cleaning and maintenance concession
- Convenience store (food and sundries)
- Boater sewer pump out facilities
- Oil and bilge pad recycling station
- Boater restrooms, showers and laundry
- Boater recreation rooms
- Boater parking
- Shipyard
- Boat dry storage

Upon identification of the BMF plan, we will then be able to begin to address construction costing and phasing.

The Kona Kai Ola project will utilize the existing Honokohau Harbor entrance channel as directed by DLNR. In a recent meeting on May 31, 2006 with Harry Yada of DLNR Land Division and Richard Rice of DOBOR, the importance of a harbormaster location with a clear view of the ocean entrance was discussed for boater safety reasons. At present the appropriate location is considered to be north of and across the interior channel from the existing fuel dock. This would provide much better view than the fuel dock side of the channel due to the visual obstruction associated with the existing park on the south side of the ocean entrance. The harbormaster would have jurisdiction over the

full ocean entrance channel to the point where vessels enter the JDI marina basin, wherein the JDI marina operations would assume control.

The team is presently performing a boat traffic assessment to evaluate the potential for boat traffic congestion in the entrance channel associated with the addition of the new marina slips. The study will address any traffic control measures that may be appropriate. Any measures to be recommended will be developed in close coordination with DLNR staff.

V. DRAFT ENVIRONMENTAL IMPACT STATEMENT

The EISPN will be published in the July 8, 2006 *Environmental Notice*. The end of the public comment period is August 7, 2006. The sub-consultant studies are currently being prepared. These include, but are not limited to, cultural, archaeological, water quality, groundwater impacts, wave studies, zone of mixing analyses, flora, fauna, air quality and noise. The draft sub-consultant reports above are to be completed by the end of August and will be included in the draft EIS. The draft EIS is to be completed by October 11, 2006.

The draft EIS will be completed for submittal to OEQC, DLNR and DHHL by October 11, 2006. The draft EIS would be published in the OEQC Bulletin on October 23, 2006 for a 45-day public review period ending on December 7, 2006. Subsequent to the draft EIS review period, formal responses to comments will be prepared. These will be mailed to all respondents and all comments and responses will be incorporated into the Final EIS.

The Board (DLNR) will then be sent the final EIS for review. Their comments will then be incorporated into the Final EIS. Depending on their review time frame and only after the final EIS is approved by the Board; the Final EIS will be submitted to OEQC for publication.

VI. MASTER COVENANTS, CONDITIONS AND RESTRICTIONS

JDI is to prepare and submit to the DLNR and DHHL for review and approval a proposed form of master covenants, conditions and restrictions to be imposed upon the property comprising the Kona Kai Ola Project in order to enhance, maintain, preserve and protect the value, desirability and attractiveness of the various development parcels as part of an integrated resort community.

JDI / Kona Marina is in process of developing the Overall Kona Kai Ola Development Guidelines and Standards for site planning, architecture, landscape architecture, lighting, signage/graphics, etc. to cover the project entry, major roadways, common areas and individual development parcels.

JDI / Kona Marina is also determining what community benefit contributions could partially fund programs and operation of the a Hawai'i nonprofit corporation or foundation established by the Developer to promote community development, community health care, job training, educational and/or cultural programs and projects for the residents of North Kona and/or elsewhere on the island of Hawai'i.

VII. COMMUNITY AND GOVERNMENT RELATIONS

Over the past seven months, more than 300 people were given the Kona Kai Ola Project presentation, and asked for comment and input. 125 people were met individually or in very small groups. An additional 180 people heard the Kona Kai Ola presentations that were given at larger meetings of different organizations. Each large group meeting included a presentation, and question and answer periods, with the members of the commission, council, or club.

The list of names included in the Kona Kai Ola EIS Preparation Notice includes names of the 125 individuals in the very small meetings, plus the names of another 70 people who were at the larger presentations as board members, commissioners, council members or club members. The names of the organizations are also listed. In addition to those individuals named in this list, there were about 110 other individuals who attended the group presentations because they were there as club members, or members of the public who attended the meeting. While their names weren't recorded, these people heard the presentation and participated in the questions and answers. All together, a total of over 300 people have been consulted in this process.

The key issues that have surfaced from these one-on-one meetings and group presentations include overall density of the project including the total number of visitor accommodation units (hotel and timeshare), size of the marina (number of slips), traffic concerns on Queen Ka'ahumanu Highway, lack of hard infrastructure within the overall community (roads), a need for community gathering places (parks and other areas to play and learn), adequate shoreline setbacks, Hawaiian cultural sensitivity, concerns about the County of Hawai'i's Waste Water Treatment Plant, and the project's environmental impacts on ground water and near shore waters.

The community concerns and priorities expressed at these meetings were gathered in this communications program, and they were provided to the Kona Kai Ola planning and design team. This planning process which includes consultation with neighbors and community stakeholders will help ensure a successful design of Kona Kai Ola. Some of the design and planning steps taken to address these community concerns include:

CORE INFRASTRUCTURE PLAN CONCERNS:

- Design and plan for the Kealakehe Parkway extension to Kuakini Highway as a major road connecting the harbor area to Kailua Village;
- Evaluation of the feasibility of a grade-separated interchange at the intersection of Kealakehe Parkway and Queen Ka'ahumanu Highway;

BASIC MARINA FACILITIES CONCERNS:

- Evaluation of the safety issues with the shared entrance channel that may limit the number of slips in the new harbor basin;
- Evaluation of the market for boat slips that may suggest changes to the number of slips in the new harbor basin;

MASTER DEVELOPMENT PLAN:

- A substantial shoreline park, with a 400' setback, providing increased public shoreline access to recreation areas and protection of culturally significant sites;
- Perpetuating the cultural history of this land through the inclusion of a cultural center as an integral part of the project;
- Numerous community spaces in the plan including a canoe park, community gathering areas, and cultural center;
- A marine science education center, which will provide new opportunities for local schools to learn about the ocean and the maritime heritage of Hawai'i;
- Evaluation of different options for upgrading the wastewater treatment plant to improve its performance and capacity;

DRAFT ENVIRONMENTAL IMPACT STATEMENT CONCERNS

- Evaluation and analysis of potential environmental impacts, and suggested mitigation measures will be included in a comprehensive Environmental Impact Statement, the surveys for which are currently being completed. An EIS survey of particular importance is the comprehensive groundwater sampling and modeling work that is being done as part of the Environmental Impact Statement. This survey exceeds the standard EIS studies for such a project, and will provide key information to better understand the potential impacts of the project on groundwater and near shore water.

The communications outreach program will continue with further meetings with key stakeholders and community leaders throughout the rest of the planning, design and permitting process.

Mr. Peter T. Young
June 27, 2006
Page 11 of 11

We are looking forward to our presentation with the DLNR/DHHL on June 29, 2006. If you have any questions regarding any of the above, feel free to contact me at (770) 399-9930.

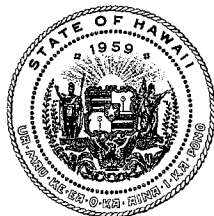
Very truly yours,



Scott W. Condra
Senior Vice President of Development

cc: Keith Chun
Gavin Chun
Jim Jacoby
D. Scott MacKinnon, Esq.

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
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COMMISSION ON WATER RESOURCE MANAGEMENT
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Ref. No.: 03HD-153

Author: LD-KC

July 6, 2006

**VIA EMAIL (condra@jacobydevelopment.com);
ORIGINAL BY US MAIL**

Mr. Scott Condra
Senior Vice President of Development
Jacoby Development, Inc.
171 17th Street, NW, Suite 1550
Atlanta, Georgia 30363

Re: Kona Kai Ola Development Project

Dear Mr. Condra:

Thank you to you and your consultants for the June 29, 2006 presentation on the status of Jacoby Development, Inc.'s ("JDI") efforts regarding the proposed Kona Kai Ola development project. The following are DLNR's comments to the presentation.

1. Provide a map of the proposed Master Development Plan ("MDP"), which also shows the current boundaries of the DLNR parcels and the DHHL parcel, and indicate which portions the project (including which development pods/components and the respective acreages) are within the DLNR parcels and which portions are within the DHHL parcel.
2. Provide a description of the phasing of the project currently contemplated by JDI.
3. Provide a list of all land use entitlements, permits, and approvals (collectively, the "Approvals") required to develop the proposed MDP, and identify the purpose/component/facility for each Approval. In particular, identify the Approvals that are required for the proposed Basic Marina Facilities, water features, seawater cooling plan/pipeline system, use of the harbor entrance channel and Core Infrastructure.
4. Provide details regarding the proposed resort and timeshare development pods/components, including the densities for each pod/component, a description of the proposed improvements (e.g., low-rise townhomes vs. hotel buildings, estimated height/number of floors, types and durations of timeshare interests, timeshare operations (e.g., possible operators, membership vs. ownership structure, etc.)

EXHIBIT E

5. Describe the availability of new boat slips to the general public (e.g., How many boat slips will be made available to the public? Does JDI intend to reserve any boat slips for use by hotel/resort guests only? If so, how many? Does JDI intend to reserve any boat slips for timeshare owners? If so, how many?)
6. The maps shown at your presentation showed the realigned Kealakehe Parkway (as a 120-foot right-of-way) and the roadways and infrastructure that would serve the various development parcels (e.g., the 80-foot right-of-way west of Kealakehe Parkway that serves the makai development parcels) and also the existing Honokohau Small Boat Harbor. Please confirm that these roadways/infrastructure are part of the Core Infrastructure Plan.
7. Are the proposed seawater cooling plant and associated pipes part of the Core Infrastructure?
8. Describe the phasing of the Core Infrastructure and describe how the phasing of the Core Infrastructure relates to the phasing for the project (as currently contemplated).

We encourage JDI to address these comments in writing once the information becomes available, and to the extent possible, address these comments in your presentation to the Land Board on July 13, 2006. If you have any questions regarding any of the above, please contact Keith Chun at 587-0431 or Gavin Chun at 587-0433.

Very truly yours,

DRAFT

PETER T. YOUNG
Chairperson of the Board of
Land and Natural Resources

cc: D. Scott MacKinnon, Esq (email only: mackinnon@m4law.com)
Frank Brandt (email only: fbrandt@pbrhawaii.com)
Land Board Member
Central Files
District Files